

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

MATTHEW KOHUS,	:	Case No. 3:12-cv-294
Plaintiff,	:	District Judge Walter H. Rice
v.	:	Magistrate Judge Michael J. Newman
JASMINE CORNELIUS, <i>et al.</i>	:	
Defendants.	:	

REPORT AND RECOMMENDATION¹

This matter is before the Court upon Defendant Jasmine Cornelius' (hereinafter "Defendant") motion to dismiss Count One of Plaintiff's complaint as being barred by the applicable statute of limitations. Doc. 12. Defendant's motion does not challenge any of the other four causes of action in Plaintiff's complaint. *Id.*

Subsequent to the filing of Defendant's motion, Plaintiff filed a response in which he agreed with Defendant's argument, and conceded that Count One should be dismissed as being barred by the statute of limitations.² Doc. 18.

Accordingly, and for good cause shown, the Court **RECOMMENDS** that Count One of Plaintiff's complaint -- *i.e.*, for "assault and battery," *see* doc. 1 at PageID 9-10 -- be **DISMISSED WITH PREJUDICE**.

May 16, 2013

s/ Michael J. Newman
United States Magistrate Judge

¹ Attached hereto is NOTICE to the parties regarding objections to this Report and Recommendation.

² The Court notes that Plaintiff's complaint was filed while he was proceeding *pro se*. Plaintiff is now represented by attorney John Scaccia. *See* doc. 15.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendation. Pursuant to Fed. R. Civ. P. 6(d), this period is automatically extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report & Recommendation objected to and shall be accompanied by a memorandum in support of the objections. If the Report & Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).